



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

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**CHIEF HEALTH INFORMATICS OFFICER LETTER**

**GUIDELINES REGARDING THE OUTSIDE EMPLOYMENT OF VHA EMPLOYEES**

1. Recently, a number of Veterans Health Administration (VHA) Information Technology (IT) employees have been approached by outside companies and organizations to install, modify, and/or maintain Veterans Health Information Systems and Technology Architecture (VistA) software and systems. Based on advice from General Counsel, this Information Letter outlines the information Department of Veterans Affairs (VA) employees need to consider as they explore the possibility of employment opportunities outside of their regular VA duty hours.
2. The purpose of this message is to provide employees with an overview of ethical issues they may encounter. Once an employee is aware of an ethical issue, the Executive Branch Standards of Ethical Conduct (Title 5 Code of Federal Regulations (CFR) Part 2635) and criminal conflict of interest laws (Title 18 United States Code (U.S.C.) Chapter 11) in the following areas need to govern their response:
  - a. Gifts from outside sources;
  - b. Gifts between employees;
  - c. Conflicting financial interests;
  - d. Impartiality in performing official duties;
  - e. Seeking other employment;
  - f. Misuse of position; and
  - g. Outside activities.
3. The Executive Branch Standards of Ethical Conduct prohibit employees from using their public office for private gain. (see 5 CFR §§ 2635.101(b)(7), and 2635.702).
4. Criminal conflict of interest law prohibits executive branch employees from receiving compensation from a private entity for performance of their official duties, even if those duties are performed outside of their tour-of-duty (see 18 U.S.C. § 209). This is known as an illegal

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supplementation of salary. Criminal conflict of interest law prohibits Government employees from participating personally and substantially in any official matter involving specific parties that would have a direct and predictable effect on their outside financial interests, including those of any outside employer (see 18, U.S.C. § 208(a)). For example, there may be a violation if, in working on VistA for VA, an employee can make that software more marketable or user friendly for the employee's outside employer. Employees in this situation would most likely have to excuse themselves from further VA work on VistA.

5. According to the VA Office of General Counsel (OGC), VA employees may accept compensation for outside employment involving the modification of VistA software provided they:

- a. Would not modify VistA software for outside entities as part of their official VA responsibilities;
- b. Were offered the employment based on their IT expertise rather than their VA position;
- c. Would not participate personally and substantially in any VA matter that would have a direct and predictable effect on the financial interests of the outside employer; and
- d. Do not perform any work for an outside employer during their VA tour-of-duty.

***NOTE:** IT Employees who seek outside employment may wish to seek Regional Counsel advice if they have any question as to whether their contemplated outside employment would conflict with criminal conflict of interest law or the Executive Branch Standards of Conduct. The review is intended for the protection of the employee. The Regional Counsel determines if such outside activities comply with current rules and regulations prior to the employee engaging in such activities.*

6. IT employees who need clarification about the applicability of any of these rules may consult with VA ethics officials who are Regional Counsels, or Jim Adams or Jonathan Gurland of OGC at (202) 273-6334. These officials are there to answer employee questions and help them understand what is required of VA employees.

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